

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 07/06/2012
POSITION: Neutral

BILL NUMBER: AB 1671
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BILL SUMMARY: Department of Transportation: Retention Payments

Existing law, until January 1, 2014, prohibits the Department of Transportation (Caltrans) from withholding retention payments to contractors when making progress payments for state-funded public works projects.

This bill would extend the sunset date to January 1, 2020.

FISCAL SUMMARY

This bill continues the zero-retention policy for contractor payments beyond the current expiration date of January 1, 2014, relieving the administrative burden of tracking retentions for state-funded public works projects. If existing law were allowed to sunset, Caltrans would be required to withhold retention payments from a portion of its projects as required by state law.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the original version are minor and do not change our position.

This bill has been amended to authorize two new forms of bidder's security, an electronic bidder's bond or a signed bidder's bond, from an approved surety insurer.

COMMENTS

The Department of Finance is neutral on this bill because it would relieve Caltrans from the administrative burden of having a two-tiered payment system for public works projects.

Retentions are contractual withholdings of progress payments without cause and payable to a contractor after successful completion of a project. These retentions maintain a certain level of financial control for a public entity over a public works project.

Chapter 341, Statutes of 2008 (SB 593), prohibited, until January 1, 2014, Caltrans from withholding retention payments to contractors when making progress payments for public works projects.

Retention payments were established as a means to provide security to an awarding body for the completion of construction projects. Federal regulations preempt states from withholding retention payments on projects that are federally-funded or contain a portion of federal funds. Absent Chapter 341, existing law would require state departments to withhold no more than 5 percent of a contract in retention for projects funded only with state funds. Caltrans indicates retention payments are unnecessary because contractors are already required to carry payment and performance bonds on all but minor projects. Therefore, because the majority of Caltrans' projects have some level of federal funding, the additional risk to Caltrans of extending this sunset date would continue to be minimal.

Analyst/Principal (0752) M.Almy	Date	Program Budget Manager Kristin Shelton	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

BILL NUMBER

AB 1671

	SO	(Fiscal Impact by Fiscal Year)							
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP					Fund		
Type	RV	98	FC	2012-2013	FC	2013-2014	FC	2014-2015	Code
2660/Caltrans	CO	No		----- No/Minor Fiscal Impact -----					0042
<u>Fund Code</u>	<u>Title</u>								
0042	Highway Account, State, STF								